

1210.14 Non-Classified Employees

Issued January 1, 1994

SUBJECT: Non-Classified Employees.

APPLICATION: Executive Branch Departments and Sub-units.

PURPOSE: To provide guidelines for written notification to the Departments of Management and Budget and Civil Service regarding appointments to non-classified positions.

To specify terms and applications of Public Act 429 of 1978 governing salaries and other benefits for certain State employees having non-classified status.

CONTACT AGENCY: Department of Management and Budget (DMB) - Office of Financial Management (OFM).

TELEPHONE: 517/373-1011

FAX: 517/373-6458

SUMMARY: Procedures which apply to all State non-classified employees appointed, reappointed, or recontracted since October 1, 1978 cover appointments, agreements, salaries, group benefits, transfer of leave benefits, leave and longevity benefit options, and terminal payment.

APPLICABLE FORMS: A-780, Letter of Appointment.

PROCEDURES:

Implementation of Public Act 429 of 1978 applies to State non-classified employees appointed, reappointed or whose contracts have been renegotiated on or after October 1, 1978.

Note: Non-classified State employees exclude the following:

1. Persons in the legislative and judicial branches of government.
2. Individuals elected by popular voice.
3. Employees in State institutions of higher education.
4. Persons in the armed forces of the State.
5. Appointees who serve without salary.
6. Members of boards or commissions who are paid at a per diem rate.
7. Special personal services (contractual) employees.
 - Appointments
 - Appointing authorities select and appoint employees to non-classified positions in State service.
 - Subject to prior approval of the appointing authority, a classified employee with status may be granted a leave of absence without pay from a classified position for the purpose of accepting an appointment to a non-classified position.

- The leave of absence must be both approved and annually renewed. Otherwise, an appointment to a non-classified position constitutes a break in classified service, affecting continuous service.
- An employee's appointment is considered continuous and binding for the duration of the time period specified in the contract agreement. Any reappointment to the same position beyond expiration of the existing contract must be validated by means of a newly signed contract.
- At time of appointment, non-classified employees shall select 1 of 2 benefit options:
 - Civil Service Benefit Agreement.
 - Waives Agreement.

The options are explained in "Leave and Longevity Benefit Options".

- It is essential for the appointing authority to specify in writing all terms of any agreement at the time of appointment. The Letter of Appointment, Form A-780 is the agreement form to be signed by both the Appointee and the appointing authority. Blank forms are obtainable from the DMB Warehouse Services and will be forwarded upon request. Appointing authority then prepares the letter of appointment in quintuplicate. The appointing authority keeps 1 copy and sends:
 - 1 copy to Department of Civil Service.
 - 2 originals to the DMB.
 - 1 copy to appointee.

DMB will sign and date both copies, return one to the appointing authority and file the other.

- Agreements
 - In support of any understandings reached with non-classified employees, the DMB will require written agreements as follows:
 - For unclassified heads of departments appointed by the governor, a written agreement signed by the Governor.
 - For departments governed by a board or commission, a written agreement signed by the board of commission chairperson.
 - For subordinate non-classified positions in those departments headed by a single executive, a written agreement signed by the department head.
 - The resolutions and terms of the agreement shall continue so long as the appointee occupies that position. Personnel changes in the appointing board or commission membership or of the appointing authority do not alter the validity of the appointment or the terms of the existing agreement.
 - New contract agreements are effective from date forward and will contain no retroactive provisions.
 - In all instances, copies of any new agreement must be sent at once to the DMB for registration and accounting purposes.

- Salaries
 - A salary prescribed by statute or in an appropriation act, unless otherwise qualified, is considered to be a fiscal salary.
 - Annual salaries for non-classified employees shall be paid in 26 or 27 biweekly increments per fiscal year. The biweekly increment is determined by dividing the annual salary by the number of working days in that fiscal year, which provides the daily rate of pay; then by multiplying that daily rate by 10 (days) to establish the biweekly rate.
 - The last payment of each fiscal year of service will require a gross pay adjustment to bring year-to-date earnings into agreement with the annual salary as appropriated.
 - Regular salary payments shall be made only for that time during which the employee holds the position.
 - Pay stops on the day of termination. The final biweekly gross pay is determined by multiplying the number of hours worked during the last biweekly pay period times the established hourly rate.
 - The hourly pay rate is established by dividing 80 hours into regular biweekly salary increment amounts.
- Group Benefits
 - Non-classified employees are entitled to the same types of voluntary payroll deductions as are employees in the State classified service.
 - They are also entitled to join employee groups to obtain benefits or to promote the legislation of benefits, subject to approval by controlling authorities or applicable law.
- Transfer of Leave Benefits
 - Accrued leave benefits earned in the non-classified service shall not be carried over and merged with leave benefits accrued in the classified service.
 - Benefits accrued in the classified service shall not be carried over to the non-classified service.
 - Non-classified employees on approved leave of absence from a classified position may not use nor transfer those credits, but may "bank" them. Upon return to classified positions, the banked leave credits are again available for use.
 - A non-classified employee may transfer all or a portion of accumulated leave balances from one non-classified position to another non-classified position.
 - Such transfer is permissible provided the new appointing authority is agreeable and provides for the transfer in the written agreement.
 - A copy is furnished to the previous appointing authority, when leave balances are being transferred from an old to a new non-classified position.
 - Transfers of leave balances would preclude their payment as terminal leave benefits by the previous appointing authority.
- Leave and Longevity Benefit Options
 - Civil Service Benefit Agreement Option

- The crediting, accumulation, use, recording and payment of sick, annual, bonus and personal leave time for non-classified employees during tenure of employment or at termination for any reason, shall be the SAME as that established for State civil service employees.

- UNLESS -

The non-classified appointee waives the Civil Service Benefit Agreement at time of appointment.

- Benefit revisions by Civil Service automatically apply to only those classified and non-classified employees who are under the "Civil Service Benefit Agreement" option. They are effective from specified date forward. No written amendments to the existing agreement are necessary.
- Sick Leave - Employees hired on or after October 1, 1980 are not eligible for payments of unused sick leave at termination. For employees hired prior to October 1, 1980, payments for unused sick leave hours earned in non-classified positions are payable to employees or their heirs at termination and are computed as follows:
 - For employees who separate by reason of death, retirement or deferred retirement, the percentage is 50%. For employees who separate for any other reason, multiply unused sick leave hours accrued in a non-classified position by employee's current hourly pay rate.
 - Multiply this amount by its applicable percentage rate.
 - The percentage rate is determined by combining the total unused sick leave balances from both non-classified AND classified service, then, by
 - Determining the proper percentage rate for that total number from the "Table of Values" shown in the Civil Service Compensation Manual.
 - Computation equals amount payable at the final regular pay cycle.
- Longevity - Annual longevity payments are available to non-classified employees on the same basis as classified employees. Eligibility for payment is dependent on length of service accrued from both classified and non-classified service.
 - The Longevity Payment amount is specified in the Longevity Compensation Plan and Schedule, Section C, of the Civil Service Compensation Manual and is determined based on total combined years of service.
- Waives Agreement Option
 - A "Waives Agreement" means that a non-classified employee rejects the "Civil Service Benefit Agreement" plan in favor of formulating an individual agreement with his/her appointing authority.
 - Leave Benefits. Leave benefits may be arranged but in no case will the employee receive terminal monetary payment for any unused leave balances.
 - Longevity. Public Act 429 prohibits accrual or payment of longevity benefits.

- Terminal Payment
 - Non-classified employees who have selected the "Waives Agreement" option will receive no monetary benefit payments for non-classified service at either termination or retirement.
 - Non-classified employees, however, who have selected the "Civil Service Benefit Agreement" option are eligible for the following terminal provisions.
 - Payable leave balances accrued in a non-classified position must be paid when employee's appointment terminates, and will be limited to the unexpended appropriation balance for that position.
 - If necessary, the Legislature may be asked to provide supplementary funds to cover payable leave benefits due an employee at termination from a non-classified position.
 - Unused leave benefits earned and payable under an appointment agreement must be documented by time-keeping records. Before terminal payment, the DMB, Assets and Payroll Division, verifies payable balances.
 - To qualify for terminal payment at retirement, the non-classified employee must separate from non-classified service, in accordance with provisions of the State Retirement Act.
 - Such payment shall be made at the employee's current rate of pay by the agency from which he/she retires.
 - A classified employee who was not paid termination benefits from a previously held non-classified position, may request such payment at retirement time.
 - The request is generated by the department in which employee was last employed. It is sent through the Office of the Budget to the Legislature.
 - The Legislature may grant funds to compensate the employee for leave benefits accumulated and unpaid in a previous non-classified position, provided copies of the agreement and time records are available for review.
 - At termination, non-classified employees who then return to classified positions, without a break in service, shall continue to be eligible for payment of unused annual leave accrued in classified positions, both before and after non-classified service. They will also continue to be eligible for payment of unused sick leave, if they were hired prior to October 1, 1980.
 - Upon separation from the State classified service for any reason other than retirement or death the employee shall be paid for a percentage of unused sick leave, in accordance with the "Table of Values" shown in the Civil Service Commission's Compensation Manual.
 - Formal Civil Service attendance records reflecting time earned, time used and balances accrued or available, are required for support of terminal leave payment when reviewed by the DMB.

* * *